



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 60

RIN 2900-AP45

Fisher Houses and Other Temporary Lodging

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning Fisher House and other temporary lodging furnished by VA while a veteran is experiencing an episode of care at a VA medical facility. Such lodging is generally furnished to veterans' relatives, close friends, and caregivers at no cost, because VA's experience has shown that veterans' treatment outcomes are improved by having loved ones nearby. The proposed rule updates current regulations and better describes the application process for this lodging. The proposed rule generally reflects current VA policy and practice.

DATES: Comment Date: Comments must be received by VA on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments may be submitted by e-mail through <http://www.regulations.gov>; by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AP45, Fisher Houses and

Other Temporary Lodging.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Michael T. Kilmer, Chief Consultant, Care Management and Social Work Services (10P4C), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington DC 20420, (202) 461-6780. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA’s program for providing temporary lodging for certain individuals is authorized by section 1708 of title 38, United States Code (U.S.C.). Under section 1708, VA “may furnish [certain] persons . . . with temporary lodging in a Fisher [H]ouse or other appropriate facility in connection with the examination, treatment, or care of a veteran under [chapter 17].” This authority to provide temporary lodging assists VA in providing appropriate treatment and care to veterans because patients often respond better when they are accompanied by relatives, close friends, or caregivers. Thus, providing temporary lodging is an important element of a veteran's treatment. VA implemented its authority under section 1708 in 38 CFR Part 60. However, the current regulation no longer accurately describes the process by which

VA approves requests for Fisher House or other temporary lodging. This proposed rule would amend the regulations to describe the current process.

The application process for Fisher House or other temporary lodging is described in 38 CFR 60.15. We propose to amend § 60.15, because the application process has substantially changed. Section 60.15(a) currently states that VA Form 10-0408A is “the application for Fisher House and other temporary lodging.” That section also gives instructions for obtaining and filing the specified form. Although we will continue to accept applications submitted on Form 10-0408A until this proposed regulation takes effect, VA has discontinued the use of this form in favor of a process that requires the requester to contact specified personnel directly for capture in the requester’s electronic health record of all information that would have been included on the form.

This process has already improved the efficiency of evaluating requests for Fisher House and other temporary housing for several reasons. VA facilities cannot practicably store paper forms, and electronic processing will save time and money compared to scanning paper forms into a veteran’s medical record. Additionally, because the consult will become part of the veteran’s electronic health record, VA staff can view it when future requests for temporary housing are received. This will save time for the veteran, who will need to provide only updated information to VA staff, rather than having to complete a new form. Accordingly, we propose to replace the existing language of § 60.15(a) by deleting the reference to Form 10-0408A and replacing it with a description of the new process.

Although VA continues to accept applications on Form 10-0408A, requests for Fisher House or other temporary lodging will no longer involve a separate formal

application process once the present proposed rule becomes effective. Accordingly, VA believes that deleting references to an “application” or “applications” and replacing them with “request” or “requests” throughout part 60 more accurately reflects the process involved. We also propose to amend § 60.15(a) to describe the electronic consult request process. However, we would retain all other criteria in part 60 for processing requests that are received under the new CPRS-based process.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule contains no new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521). VA Form 10-0408A, referred to in current 30 CFR 60.15(a) was previously approved by the Office of Management and Budget (OMB) under control number 2900-0630, but as stated above, its use has been discontinued..

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This proposed rule would not cause a significant economic impact on health care providers, suppliers, or entities because the proposed rule would apply only to patients receiving care at VA facilities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.”

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State

Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert D. Snyder, Interim Chief of Staff, Department of Veterans Affairs, approved this document on January 20, 2016, for publication.

List of Subjects in 38 CFR Part 60

Health care, Housing, Reporting and recordkeeping requirements, Travel, Veterans.

Dated: January 21, 2016

Michael P. Shores,
Chief Impact Analyst,
Office of Regulation Policy & Management,
Office of the General Counsel,
Department of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 60 as follows:

PART 60 – FISHER HOUSES AND OTHER TEMPORARAY HOUSING

1. The authority citation for part 60 continues to read as follows:

AUTHORITY: 38 U.S.C. 501, 1708, and as noted in specific sections

2. Amend § 60.10 by removing in the word “application” each time it appears in the section and adding in its place the word “request.”

3. Amend § 60.15 by revising paragraphs (a), (b)(1), (b)(6) and (b)(7) to read as follows:

§ 60.15 Process for requesting Fisher House or other temporary lodging.

(a) Submitting requests. An accompanying individual requesting Fisher House or other temporary lodging must contact directly the provider, social worker, case manager, or Fisher House Manager at the veteran’s VA health care facility of jurisdiction. Upon receiving a request, VA will determine the accompanying individual’s eligibility for the requested housing, as provided in paragraph (b)(5) of this section.

(b) Processing requests. (1) Requests for all temporary housing are generally processed in the order that they are received by VA, and temporary lodging is then granted on a first come, first served basis; however, in extraordinary circumstances, such as imminent death, critical injury, or organ donation, requests may be processed out of order.

* * *

(6) If VA denies a request for one type of lodging, such as at a Fisher House, the request will be considered for other temporary lodging and vice versa, if the requester is eligible.

(7) If VA denies a request for temporary lodging, VA will refer the request to a VA social worker at the VA health care facility of jurisdiction to determine if other arrangements can be made.

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